

IC 6-4.1-12

Chapter 12. General Administrative Provisions

IC 6-4.1-12-1

Jurisdiction of probate court to determine inheritance tax

Sec. 1. The probate court of the county:

- (1) in which a resident decedent was domiciled at the time of the decedent's death; or
- (2) in which the resident decedent's estate is being administered, if different from the county described in subdivision (1);

has jurisdiction to determine the inheritance tax imposed as a result of the resident decedent's death and to hear all matters related to the tax determination. However, if two (2) or more courts in a county have probate jurisdiction, the first court acquiring jurisdiction under this article acquires exclusive jurisdiction over the inheritance tax determination.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1977(ss), P.L.6, SEC.11; P.L.86-1995, SEC.9.

IC 6-4.1-12-2

County assessor as inheritance tax appraiser; appointment of other; fees

Sec. 2. Each county assessor shall serve as the county inheritance tax appraiser for the county he serves. However, the appropriate probate court shall appoint a competent and qualified resident of the county to appraise property transferred by a resident decedent if the county assessor is:

- (1) beneficially interested as an heir of the decedent's estate;
- (2) the personal representative of the decedent's estate; or
- (3) related to the decedent or a beneficiary of the decedent's estate within the third degree of consanguinity or affinity.

A person who is appointed to act as the county inheritance tax appraiser under this section shall receive a fee for his services. The court, subject to the approval of the department of state revenue, shall set the fee.

As added by Acts 1976, P.L.18, SEC.1.

IC 6-4.1-12-3

Repealed

(Repealed by Acts 1982, P.L.1, SEC.71.)

IC 6-4.1-12-4

Equipment costs

Sec. 4. The county assessor shall receive funds from the county to pay the actual cost of equipment which he needs to perform the duties assigned to him under this article.

As added by Acts 1976, P.L.18, SEC.1.

IC 6-4.1-12-5

Compromise agreements concerning tax or interest on

delinquency

Sec. 5. (a) If one (1) of the conditions listed in subsection (b) of this section exists, the department of state revenue may, with the advice and approval of the attorney general, enter into a compromise agreement concerning the amount of any inheritance tax, or interest charges on delinquent inheritance tax, to be collected under this article. The department may enter into such an agreement with the personal representative of a decedent's estate or with the transferee of property transferred by the decedent.

(b) The department may enter into a compromise agreement under this section only if the department and the attorney general believe that a substantial doubt exists as to:

- (1) the right to impose the tax under applicable Indiana law;
- (2) the constitutionality, under either the Indiana or United States Constitutions, of the imposition of the tax;
- (3) the correct value of property transferred under a taxable transfer;
- (4) the correct amount of tax due;
- (5) the collectability of the tax; or
- (6) whether the decedent was a resident or a non-resident of this state.

(c) After payment of the inheritance tax agreed to by the parties to a compromise agreement entered into under this section, the issue of the amount of tax to be collected may be reopened only if the agreement was entered into fraudulently.

As added by Acts 1976, P.L.18, SEC.1.

IC 6-4.1-12-6

Powers and duties of department of state revenue

Sec. 6. The department of state revenue:

- (1) shall supervise the enforcement of this article;
- (2) shall supervise the collection of taxes imposed under this article;
- (3) shall investigate the manner in which this article is administered and enforced in the various counties of this state;
- (4) shall provide the forms and books required to implement this article;
- (5) shall promulgate any rules or regulations which are necessary for the interpretation or the enforcement of this article;
- (6) may investigate any facts or circumstances which are relevant to the taxes imposed under this article;
- (7) shall provide the inheritance tax administrator with a secretary; and
- (8) may provide the inheritance tax administrator with assistants, clerks, or stenographers.

As added by Acts 1976, P.L.18, SEC.1.

IC 6-4.1-12-6.5

Determination of department of state revenue resulting in tax increase; statement in rules

Sec. 6.5. All changes in the department of state revenue's

interpretations of IC 6-4.1 that could increase a person's tax liability must be stated in rules promulgated under IC 4-22-2. In no event may a change in a departmental interpretation of IC 6-4.1 that could increase a person's tax liability take effect before the date on which it is promulgated in a rule.

As added by Acts 1979, P.L.75, SEC.14.

IC 6-4.1-12-7

Investigative powers of department of state revenue; witness fees

Sec. 7. For the purpose of conducting an investigation described under clause (3) or clause (6) of section 6 of this chapter, the department of state revenue may:

- (1) subpoena evidence;
- (2) subpoena witnesses;
- (3) administer oaths; or
- (4) take testimony concerning any matter.

Each witness examined by the department is entitled to receive a fee equal to the same fee paid witnesses subpoenaed to appear before a court of record. The witness fee shall be paid in the same manner that erroneous tax payments are refunded under IC 6-4.1-10.

As added by Acts 1976, P.L.18, SEC.1.

IC 6-4.1-12-8

Inheritance tax administrator; appointment; salary

Sec. 8. The governor shall, with the advice of the department of state revenue, appoint a state inheritance tax administrator. The inheritance tax administrator shall receive a salary to be fixed in the manner prescribed in IC 4-12-1-13. In addition, he shall receive the same mileage and travel allowances which other state employees receive.

As added by Acts 1976, P.L.18, SEC.1.

IC 6-4.1-12-9

Powers and duties of inheritance tax administrator

Sec. 9. The inheritance tax administrator:

- (1) shall supervise the administration of this article;
- (2) shall, on behalf of the department of state revenue, perform the administrative duties assigned to the department under this article;
- (3) shall file reports with the department of state revenue on the first day of January, April, July, and October of each year;
- (4) may, with the approval of the governor, employ special auditors or appraisers to appraise any property interest which is transferred by a decedent under a taxable transfer; and
- (5) may, with the approval of the governor, employ special counsel to advise the administrator or to represent the administrator or the department of state revenue in any proceeding initiated by or against the administrator or the department.

As added by Acts 1976, P.L.18, SEC.1.

IC 6-4.1-12-10

Special auditor, appraiser, or counsel; compensation

Sec. 10. A special auditor, appraiser, or counsel appointed by the inheritance tax administrator under section 9 of this chapter shall receive compensation for his services in an amount fixed by the administrator and the governor. When a claim for the compensation is approved by the administrator and the governor, the state auditor shall issue a warrant to the claimant in the amount so approved. The state auditor shall draw the warrant on taxes collected under this article. The state treasurer shall pay the warrant.

As added by Acts 1976, P.L.18, SEC.1.

IC 6-4.1-12-11

Information and investigations concerning non-resident's estates

Sec. 11. The department of state revenue and the inheritance tax administrator shall gather information and make investigations concerning the estates of non-residents whose deaths result in the imposition of a tax under this article.

As added by Acts 1976, P.L.18, SEC.1.

IC 6-4.1-12-12

Disclosure of inheritance tax information; offense

Sec. 12. (a) The department, the department's counsel, agents, clerks, stenographers, other employees, or former employees, or any other person who gains access to the inheritance tax files shall not divulge any information disclosed by the documents required to be filed under this article. However, disclosure may be made in the following cases:

- (1) To comply with an order of a court.
- (2) To the members and employees of the department.
- (3) To the members and employees of county offices and courts to the extent they need the information for inheritance tax purposes. IC 5-14-3-6.5 does not apply to this subdivision.
- (4) To the governor.
- (5) To the attorney general.
- (6) To any other legal representative of the state in any action pertaining to the tax due under this article.
- (7) To any authorized officer of the United States, when the recipient agrees that the information is confidential and will be used solely for official purposes.
- (8) Upon the receipt of a certified request, to any designated officer of a tax department of any other state, district, territory, or possession of the United States, when the state, district, territory, or possession permits the exchange of like information with the taxing officials of Indiana and when the recipient agrees that the information is confidential and will be used solely for tax collection purposes.
- (9) Upon receipt of a written request, to the director of the division of family and children and to any county director of family and children, when the recipient agrees that the information is confidential and will be used only in connection

with their official duties.

(10) To the attorney listed on the inheritance tax return under IC 6-4.1-4-1 or IC 6-4.1-4-7.

(11) To a devisee, an heir, a successor in interest, or a surviving joint tenant of the decedent for whom an inheritance tax return was filed or, upon the receipt of a written request, to an agent or attorney of a devisee, an heir, a successor in interest, or a surviving joint tenant of the decedent.

(b) Any person who knowingly violates this section:

(1) commits a Class C misdemeanor; and

(2) shall be immediately dismissed from the person's office or employment, if the person is an officer or employee of the state.

As added by P.L.26-1985, SEC.13. Amended by P.L.67-1988, SEC.3; P.L.58-1990, SEC.4; P.L.2-1992, SEC.70; P.L.4-1993, SEC.10; P.L.5-1993, SEC.22.